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001/007

JUN 06 2005

67,167-009

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

APPLICANTS: Ebert  
SERIAL NO.: 10/689,230  
FILED: 10/20/2003  
GROUP ART: 3676  
EXAMINER: Estremsky, Gary Wayne  
FOR: Door Lever Construction With Fragile Handle

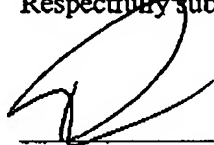
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**RESUBMISSION OF AMENDMENT**

Dear Sir:

On April 28, 2005, an Amendment after final rejection was submitted, via facsimile, in the above-referenced application. Applicant has yet to receive a reply to this response. PAIR does not reflect receipt of the Amendment. Attached are the Amendment dated April 28, 2005, and two transmission confirmations.

Respectfully submitted,



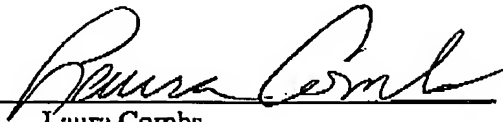
Theodore W. Olds, Reg. No. 33,080  
Carlson, Gaskey & Olds  
400 W. Maple Road, Ste. 350  
Birmingham, MI 48009  
(248) 988-8360

Dated: June 6, 2005

67,167-009

CERTIFICATE OF TRANSMISSION UNDER 37 CFR 1.8

I hereby certify that this correspondence is being facsimile transmitted to the United States patent and Trademark Office, fax number (703) 872-9306, on June 6, 2005.

  
Laura Combs

USPTO 4/28/2005 2:41 PM PAGE 1/001 Fax Server  
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04/28/2005 THU 14:43 FAX 12489888363 Carlson, Gaskey &amp; Olds

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67367-009

### IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS: Ebert  
 SERIAL NO.: 10/589,230  
 FILED: 10/20/2003  
 GROUP ART: 3676  
 EXAMINER: Ertremsky, Gary Wayne  
 FOR: Door Lever Construction With Fragile Handle

Commissioner for Patents  
 P.O. Box 1450  
 Alexandria, VA 22313-1450

### AMENDMENT

Dear Sir:

Reconsideration of the final rejection mailed 4 March 2005 is requested.

First, the examiner continues to reject the claims over the Tokoro fence handle patent. The claim requires that there be a lever for a door, and that there be a shank to be attached to the door at one end. Door handles and fence handles have different constructions, and are different based upon their differing functions. Simply, the Tokoro reference, at a minimum, is not a 102(b) reference. The examiner's argument that the intended use does not define patentability is improper under the law. The examiner might want to consider the obviousness question now, however, it is surely not appropriate to reject the claims as having been anticipated.

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PAGE 03 \* RCVD AT 4/28/05 2:41 PM Eastern Daylight Time \* SVR:USPTO-EFXXF-1/1 \* DNIS:8729306 \* CSID:12489888363 \* DURATION (mm-ss):01:46

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APPLICANTS: Ebert  
SERIAL NO.: 10/689,230  
FILED: 10/20/2003  
GROUP ART: 3676  
EXAMINER: Estremsky, Gary Wayne  
FOR: Door Lever Construction With Fragile Handle

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**AMENDMENT**

Dear Sir:

Reconsideration of the final rejection mailed 4 March 2005 is requested.

First, the examiner continues to reject the claims over the Tokarz faucet handle patent. The claim requires that there be a lever for a door, and that there be a shank to be attached to the door at one end. Door handles and faucet handles have different constructions, and are different

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Commissioner for Patents  
P.O. Box 1450  
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**AMENDMENT**

Dear Sir:

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First, the examiner continues to reject the claims over the Tokarz faucet handle patent. The claim requires that there be a lever for a door, and that there be a shank to be attached to the door at one end. Door handles and faucet handles have different constructions, and are different based upon their differing functions. Simply, the Tokarz reference, at a minimum, is not a 102(b) reference. The examiner's argument that the intended use does not define patentability is improper under the law. The examiner might want to consider the obviousness question now, however, it is surely not appropriate to reject the claims as having been anticipated.

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As to claim 2, while it is quite true that crystal material has been utilized in door handles, there is no showing in this record that crystal material has been utilized in faucet handles. Tokarz is, as disclosed, a faucet handle. The examiner's arguments with regard to the scope of claim 1 notwithstanding, the examiner suggested it is obvious to modify Tokarz, and nowhere on this record is a crystal faucet handle shown. Simply, the rejection of claim 2 is improper.

The rejection of the remaining claims over Tokarz combined with Shaw is also improper. Shaw does not eliminate "aesthetically unwanted screw slots," etc. from Tokarz. Tokarz, having an integral connection, includes no such aesthetically unwanted slots, etc.

Here again, the examiner relies on hindsight.

With regard to claim 4, the examiner's rejection is also improper. The claim is quite clear that the cross-sectional areas being recited are those in a pair of parallel planes. The examiner cannot properly interpret the claim to mean any cross-sectional area taken anywhere through either parts. Here again, the examiner appears to be improperly interpreting the claims and the references.

These same basic failings are true of new claims 9-11.

In sum, the rejection of all claims is improper. Allowance of all claims is in order, and is solicited.

Since applicant's next action would be to prepare and file an appeal brief, and since it is believed that the included rejections could not survive an appeals conference, the examiner is asked with all due sincerity to allow this application in view of the above arguments.

Respectfully submitted,




Theodore W. Olds, Reg. No. 33,080  
Carlson, Gaskey & Olds  
400 W. Maple Road, Ste. 350  
Birmingham, MI 48009  
(248) 988-8360

Dated: April 25, 2005

67.167-009

CERTIFICATE OF TRANSMISSION UNDER 37 CFR 1.8

I hereby certify that this correspondence is being facsimile transmitted to the United States patent and Trademark Office, fax number (703) 872-9306, on April 28, 2005.

  
\_\_\_\_\_  
Laura Combs